

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOYCE H. REID and
JOSEPH W. REID,

Plaintiffs,

v.

SN SERVICING CORPORATION,
WILLIAM REYES, DONALD BRUNS
and JONATHAN D. McCOLLISTER,

Defendants.

ORDER

05-C-0239-C

Plaintiffs Joyce H. Reid and Joseph W. Reid filed this lawsuit on April 19, 2005, alleging wrongdoing by defendants in connection with the foreclosure of plaintiffs' residence and asking for preliminary injunctive relief. It appeared from a review of the pleadings that plaintiffs had no real chance of succeeding on their claims because they had failed to appeal from the judgment of foreclosure in state court, although that would be the logical step to have taken if they believed that they had been the victims of fraud or malfeasance in the foreclosure action. Also, they had brought an earlier action in federal court that was assigned to Judge Shabaz and dismissed by him in an order entered on November 11, 2003, and

never appealed. (This case was assigned to me because plaintiffs alleged the dubious proposition that Judge Shabaz would have to be called as a witness.)

I set the case for a hearing on plaintiffs' motion to be held on Friday, May 13, 2005, in the hope that the suit could be sorted out at that time and a decision made whether it could proceed or whether it is barred by issue or claim preclusion and the Rooker-Feldman doctrine. Now plaintiff Joyce Reid has written to the court to ask to continue the hearing for 30-45 days because she has had a serious illness and hospitalization and has been unable to provide the defendants with the necessary information in the case.

Presumably, plaintiffs are aware that if they postpone the May 13 hearing, they will not have a decision on their motion for a preliminary injunction until after a new hearing has been held. In the meantime, there is nothing restraining defendants from taking any action they believe reasonable in respect to plaintiffs' property.

I will grant plaintiffs' motion to continue the hearing and re-schedule the hearing for June 17, 2005, at 8:30 a.m. At that hearing, plaintiffs should be prepared to inform the court not only why they think they are entitled to a preliminary injunction but how this case differs from the one filed in Judge Shabaz's court, why defendant SN Servicing Corporation and Jonathan McCollister should not be dismissed from this case because they were sued in the earlier federal case and have had the claims against them dismissed, why the remaining defendants Bruns and Reyes should not be dismissed from this case on the ground that they

are in privity with defendants SN Servicing and McCollister and why the Rooker-Feldman doctrine would not bar this case as it did the one filed before Judge Shabaz. If they cannot do that at the June 17 hearing, this case will be dismissed with prejudice.

ORDER

IT IS ORDERED that plaintiffs Joyce H. Reid and Joseph W. Reid's motion for a continuance of the hearing on their motion for a preliminary injunction is GRANTED. The continued hearing will be held at 8:30 a.m. on June 17, 2005, in the United States District Courthouse, 120 N. Henry St., Madison, WI. Plaintiffs are to be prepared to advise the court why the case should not be dismissed.

Entered this 11th day of May, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge